IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4713 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NABI BHAI MUSABHAI

Versus

COLLECTOR

Appearance:

1. Special Civil Application No. 4713 of 2001

MR DJ BHATT for Petitioner No. 1

Mr. H.D. Dave, AGP for Respondents No. 1-2

NOTICE SERVED BY DS for Respondents No. 1-2

UNSERVED-REFUSED (N) for Respondents No. 3-4

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 18/02/2002

ORAL JUDGEMENT

Heard learned advocate Mr. Bhatt for the

petitioner and Mr. H.D. Dave, learned AGP for the respondents no. 1 and 2.

Learned advocate Mr. Bhatt has sought leave to delete respondents NO. 3 and 4. The submission was made by him that they have refused to accept the service of notice issued by this Court. Leave to delete respondents no. 3 and 4 is granted.

Rule. Service of rule is waived by the learned AGP Mr. H.D. Dave appearing for respondents no. 1 and 2. Brief facts of the present petition are to the effect that the services of the present petitioner were terminated by the employer and that order of termination was challenged by the petitioner before the labour court concerned by filing reference No. 1291 of 1984 wherein the labour court has granted reinstatement in favour of the petitioner with continuity of service and with full back wages for the intervening period. However, since the award made by the labour court was not implemented by the employer, the petitioner filed an application under section 15(2) of the Payment of Wages Act by filing application No. 574 of 1997 wherein the directions were issued by the Authority under the Payment of Wages Act against the employer to pay an amount of Rs.1,48,600.00 plus cost of Rs.2000.00 to the petitioner. Even that order of the authority under Payment of Wages Act has also not been implemented by the employer and, therefore, notice was given by the petitioner through union on 1st June, 1999 and thereafter, the petitioner approached the authority under Payment of Wages Act, with a request to issue recovery certificate and the same was issued on 6th September, 1999 and it was sent for execution. However, in the present petition, the petitioner has raised the grievance that the respondent Collector has not been taking effective steps for effecting recovery as per the recovery certificate. The petitioner has approached the concerned authority by letter dated 29th April, 2000 but of no avail. Therefore, the grievance of the petitioner is that though the a ward has been made by the labour court concerned in his favour and though order has been passed by the authority under the Payment of Wages Act in favour of the petitioner and then recovery certificate has also been issued, the respondent No.1 Collector has not been taking effective steps for recovering the amount as per the said recovery certificate.

During the course of hearing, learned AGP Mr. Dave appearing for the respondent authorities has made a statement that the respondent NO.1 COllector will certainly take appropriate effective steps for recovering

the amount as specified in the recovery certificate dated 6.9.1999 page 22 within some reasonable period.

Therefore, it is directed to the respondent No.1 and 2 herein are directed to take appropriate effective steps and to recover the amount as specified in the recovery certificate dated 6.9.1999 at page 22 of the present petition from the employer within two months from the date of receipt of copy of this order and to deposit such amount before the authority under the Payment of Wages Act.

This petition is allowed accordingly. Rule is made absolute in terms indicated hereinabove with no order as to costs.

Direct Service is Permitted.

18.2.2002. (H.K. Rathod,J.)

Vyas